

# REQUEST FOR FULL PROPOSAL

## Maine Natural Resource Conservation Program Full Proposal Package

September 2009

The Nature Conservancy in Maine



Maine Department of Environmental Protection



US Army Corps of Engineers



**US Army Corps  
of Engineers®**

New England District

**The Nature Conservancy in Maine  
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**<http://www.maine.gov/dep/blwq/docstand/nrpa/ILF> and [NRCP/MNRCP/index.htm](http://www.maine.gov/dep/blwq/docstand/nrpa/NRCP/MNRCP/index.htm)**



# Maine Natural Resource Conservation Program

## Background

The goal of the Maine Natural Resource Conservation Program (MNRCP) is to increase the amount and quality of natural resource restoration, enhancement, preservation, and creation over that typically achieved by other forms of compensation for activities that impact wetlands and other resources in the State of Maine. To be eligible to receive funding from the Program, a project applicant must first submit a Letter of Intent that meets the Program's core requirements, and then be invited to submit a Full Proposal. Preference for funding will be given to projects that restore, enhance, preserve, or create natural resources that best match the natural characteristics and values that were impacted, and that are located within the same biophysical region in which the impact took place. The focus of the program is to maximize the ecological benefits of compensatory mitigation. Mitigation projects that benefit habitat areas of statewide conservation significance, or that are within or adjacent to other public or private conservation lands, or other natural resource priority areas, are generally preferred.

## Full Proposal Submissions

To be considered for funding, Full Proposals must be submitted by 5:00PM EST on November 2, 2009. Full Proposals may be submitted via email to [maineresources@tnc.org](mailto:maineresources@tnc.org) using TNC's large file transfer service at <https://lfa.tnc.org/>. (It is anticipated that the proposal packages including maps may exceed normal email attachment size limits and the large file transfer service will be necessary.) All completed proposals must include a Project Description (Appendix A), Project Budget (Appendix B), and all maps, photos, and engineering designs needed to communicate the project's objectives. The total length of the Project Description and Project Budget should not exceed five pages.

## Review Criteria

Full Proposals are evaluated by a multi-agency Review Committee that includes representatives from the Maine Department of Environmental Protection, U.S. Army Corps of Engineers, Maine Department of Inland Fisheries and Wildlife, Maine Department of Conservation, Maine Natural Areas Program, Maine State Planning Office, Maine Department of Transportation, Maine Department of Marine Resources, Maine Audubon, the Maine Association of Conservation Commissions, and The Nature Conservancy, which is a non-voting member. The Review Committee evaluates Full Proposals using the criteria described below.

### 1. Potential to Meet MNRCP Goals (30%)

Assesses the extent to which the proposal meets the core program requirement that a project restore, enhance, preserve, or create wetlands or other resources determined by the Maine Natural Resource Conservation Program to be Priority Resource Types. Considerations include:

- The type(s) of conservation proposed (restoration, enhancement, preservation, creation) and the acreage affected. All else being equal, projects that accomplish multiple types of conservation (e.g., restoration and preservation) will be assessed more favorably.
- The resource types restored, enhanced, preserved or created and the degree to which the proposed project replaces the functional benefits of impacted resources in the Biophysical Region based on a functional assessment of the project.
- Inclusion of upland areas sufficient to protect, buffer, or support identified resource functions and ecological connectivity to other conservation areas or undeveloped large blocks of habitat.

- Current and proposed condition of the property, and “functional lift” provided by project (e.g., proposed change in habitat quality, contribution to functioning biological systems, water quality, level of degradation, etc.).

## 2. **Landscape Context (20%)**

Assesses the extent to which the proposal meets the core program requirement to consider the location of a potential project relative to statewide focus areas for land conservation or habitat preservation identified by a state agency, or other regional or municipal plans. Considerations include:

- Presence within or adjacent to habitat areas of statewide conservation significance or other natural resource priority areas.
- Presence within or adjacent to public or private conservation lands.
- Presence of natural resources of significant value and/or rarity within the project site boundaries.

## 3. **Project Readiness/Feasibility (20%)**

Assesses the extent to which the proposal meets the core program requirement to demonstrate project readiness and likelihood of success, where success is defined by the ability of the project to meet MNRCP goals as stated in the proposal. Considerations include:

- Landowner willingness to participate in proposed project, including conveying a conservation easement or fee title, with conservation covenants, to property (for projects not on public or private conservation lands).
- Level of project urgency (e.g., area of rapid development or on-going site degradation, other available funding with limited timing, option to purchase set to expire, etc.)
- Degree to which proposal demonstrates understanding of resource conservation issues and needs.
- Soundness of the technical approach of the conceptual plan presented in the application.
- Initial progress (e.g., planning, fundraising, contracting, site design, etc.).
- Likelihood that the project will meet proposed schedule and/or required deadlines.
- Likelihood that the proposed actions will achieve the anticipated ecological benefits and results.
- Completeness and feasibility of long-term stewardship and monitoring plan, including endowment.
- Potential for adverse impacts (such as flooding or habitat loss) associated with the project.
- Conformance with any applicable Army Corps of Engineers and state mitigation policy, guidance and permitting requirements, including appropriate financial assurances for any construction activity.

## 4. **Project Sponsor Capacity (15%)**

Assesses the extent to which the proposal meets the core program requirement to provide for long-term management and/or stewardship by a responsible state or federal resource agency, or conservation organization. Considerations include:

- Presence of qualified, capable conservation entity willing to sponsor and/or maintain the project.
- Level of support and involvement of other relevant agencies, organizations, and local community.
- Degree to which project sponsor, and any associated partners, demonstrate the financial, administrative, and technical capacity to undertake and successfully complete the project.
- Legal and financial standing of the project sponsor.

- Quality and completeness of proposal materials.

**5. Cost Effectiveness (10%)**

Assesses the extent to which the proposal meets the program requirement that a project represent an efficient use of funds expended given the condition, location and relative appraised values of properties. Considerations include:

- Clarity and detail of budget submitted.
- Sufficiency of funds available in the applicable biophysical region.
- Availability and source of matching funds necessary to complete the project.

**6. Other Benefits (5%)**

Assesses the potential for this project to support economic activity, job creation, recreational access, scenic enhancements or other contributions to “Quality of Place” in the town or region where the project is located.

**Award Process**

Full Proposals that are determined to meet or exceed the criteria outlined above will be recommended by the Review Committee to the Approval Committee, which will make the final allocation decisions. The Approval Committee includes representatives from the Department of Environmental Protection, Army Corps of Engineers, Department of Inland Fisheries and Wildlife, Department of Conservation, Department of Marine Resources, U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency.

Applicants will be notified of allocation decisions by January 4, 2010. Successful applicants will be required to enter into a Project Agreement with the Department of Environmental Protection and The Nature Conservancy. A sample Project Agreement is attached (Appendix C).

## Appendix A Project Description

Completely describe the proposed project. Make sure to clearly cover the following, as appropriate, depending on whether the project includes restoration, enhancement, preservation or creation. Use headings as outlined below.

### Potential to Meet MNRCP Goals:

- List the total acreage, including size of entire parcel and size of the project area to be restored, enhanced, preserved and/or created.
- Describe the original habitat type and the current habitat conditions on the property with a determination of protected natural resources based on either aerial photo interpretation or, if available and applicable, a wetland delineation conducted in accordance with the Corps of Engineers 1987 Delineation Manual or subsequent USACE-approved method. Use the following list of protected natural resource types as reference:

Freshwater Resources	Coastal Resources
Freshwater wetland, forested (PFO)	Coastal wetland, Marine subtidal (M1)
Freshwater wetland, shrub-scrub (PSS)	Coastal wetland, Marine intertidal (M2)
River, stream or brook	Coastal wetland, Estuarine subtidal (E1)
Significant wildlife habitat, vernal pool	Coastal wetland, Estuarine intertidal (E2)
Significant wildlife habitat, vernal pool critical terrestrial habitat	Significant wildlife habitat, Tidal Waterfowl and Wading Bird Habitat
Significant wildlife habitat, Inland Waterfowl and Wading Bird Habitat	Significant wildlife habitat, Shorebird Feeding & Staging Areas

- Assess the functional benefits the project will provide using the following list as a guide:

Freshwater & Coastal Functions	
Education/scientific value	Retention/storage of floodwater/surface water
Floodflow alterations	Shoreline/sediment stabilization
Fish & shellfish habitat	Retention of sediment/toxicants
Nutrient removal/transformation	Uniqueness/Heritage
Production export	Visual quality/aesthetics
Recreation	Wildlife habitat
Groundwater recharge/discharge ( <i>Freshwater</i> )	

- Describe the proposed future condition of the property and the “functional lift” the project proposes to provide (e.g., proposed change in habitat quality, contribution to functioning biological systems, water quality, level of degradation, etc.).
- Describe the current and proposed buffers on the project site, and the degree to which they protect or support identified resource functions and ecological connectivity to other conservation areas or undeveloped large blocks of habitat.
- Describe the land use history including current adjacent upland activities (e.g., residential, commercial, agriculture, timber, etc.).
- Describe the specific techniques and methods that will be used to conserve the habitat.
  - If restoration, enhancement or creation is proposed, an assessment of the local hydrology must be done including demonstration that the local hydrology will be sufficient to support

the project and an assessment of likely project-related changes to the hydrology in the area. Include the type and location of all soil disturbing activities and structures; a construction schedule; and a planting plan that includes a list of non-invasive, native species to be used; planting density; planting methods and schedule; and planting plan success criteria.

- If the project is preservation by conservation easement, summarize proposed terms of the easement and who will hold the easement. Provide a draft conservation easement or fee agreement.
- Describe the level of support and involvement of other relevant agencies, organizations, and local community.

### **Landscape Context:**

- Describe the proximity / benefits to statewide focus areas for land conservation or habitat preservation identified by a state agency, or other regional or municipal plans.
- Describe the adjacency / proximity to other public or private protected properties and how this project will enhance overall conservation (e.g., refuges, management areas, preservation, parks, conservation organization properties, mitigation banks, or other protected restoration sites).
- Describe the proximity / benefits to important species in Maine such as habitat for wetland Rare, Threatened, Endangered Species, or Species of Special Concern; Habitat for Species of Greatest Conservation Need; S1 & S2 Wetland Natural Communities; and/or within or buffering brook trout, Atlantic sea-run salmon or other diadromous fish runs and habitats.
- Describe the level and type of threats to resources on and/or adjacent to the project site.
- Describe any potential adverse impacts to any protected natural resource, such as upstream or downstream aquatic resources, ecologically sensitive areas and wildlife habitat and discuss any potential effect the mitigation project may have on any species listed as either federal or state threatened or endangered that may be found in the vicinity of the project. These impacts should be avoided to the greatest degree possible.

### **Project Readiness**

- List permits needed (federal, state, and local) and which, if any, have already been secured.
- Outline tasks / steps to be taken in completing the project, including time schedule. Please also include key tasks / steps that have already been completed and the date of completion.
  - 1.
  - 2.
  - 3.
- Specify tangible outputs (work products and deliverables), including time schedule. Please also include key outputs that have already been completed and the date of completion.
  - 1.
  - 2.
  - 3.
- Outline the anticipated short-term monitoring plan for restoration, enhancement and creation projects. A five-year monitoring term is typical, with a potentially longer period for resources with slow development rates. Please note that if the project is approved for funding, a detailed monitoring plan with success criteria will need to be submitted prior to receipt of funding. Preservation projects do not require short-term monitoring plans.

- Describe the anticipated long-term monitoring and stewardship plan for all projects. Provide information on who will maintain the property in perpetuity, general easement protections and exemptions, and who will monitor/hold the easement. Itemize anticipated costs in long-term maintenance of the project site and long-term monitoring of any easement conditions. Provide information about stewardship endowment or other methods of funding the long-term stewardship of the project site. Funding for the long-term stewardship of the project site is the responsibility of the Project Sponsor or the holder of the property or easement and is not eligible for funding from the Maine Natural Resource Conservation Program.



## Appendix B Project Budget

(Identify costs as actual incurred or estimated. Include the basis for estimated costs.)

### Acquisition and Associated Costs

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Value of fee lands to be purchased or if pre-acquired, value of land already purchased (*w/in 2 yrs*)\*

Value of easements to be purchased or if pre-acquired, value of easements already purchased (*w/in 2 yrs*\*)

\*Appraisal costs. Land Acquisition and/or Easement Costs must be based on an Appraisal completed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP), and also must meet the requirements of the Uniform Relocation and Real Property Acquisition Policy Act (Public Law 91-646). The final report will consist of a complete appraisal and a self contained appraisal report. A copy of the appraisal must be attached.

Title, legal and closing costs

Land survey

Environmental hazard survey

Baseline documentation (*easement only*)

Natural resource survey – required for all projects?

### Restoration, Enhancement, or Creation Costs

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#### Itemized anticipated project costs

Personnel

Site Work

Contractual

Equipment

Supplies

Other

### Monitoring Costs

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#### Short-term Monitoring Costs.

For restoration, enhancement or creation, a 5-year monitoring term is typical, with a potentially longer period for resources with slow development rates. Preservation projects do not require short-term monitoring.

Total Project Cost

Total Natural Resources Conservation Fund Request

Estimated Stewardship/Endowment Costs:

Other Funding Sources and Amounts:

## **Appendix C**

### **Sample Project Agreement**

**Cooperating Entity:**

**Project Name and Location:**

**Premises Covered by this Agreement:**

**Scope (Description of Project):**

**Project Cost:**

Natural Resource Mitigation Fund Contribution:

Other Project Cost:

**Term of Monitoring Obligations (for projects involving ecological restoration):** \_\_\_\_\_ years, commencing on the date hereof (the “Monitoring Term”)

The following are hereby incorporated into this Agreement:

1. General Provisions
2. Project Application and Attachments
3. Project Boundary Map
4. Payment Schedule
5. Other: \_\_\_\_\_

The Nature Conservancy (hereinafter TNC), and the State of Maine, Department of Environmental Protection, represented by its Commissioner, as the Designated State Agency (hereinafter DSA), and the Cooperating Entity, mutually agree to perform this Agreement in accordance with Title 5, Maine Revised Statutes Annotated, Section 6200 et seq., as amended, and augmented by P.L. 1999 c. 514, Sec. A-6, and with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, assurances, and certifications incorporated herein by reference and hereby made a part hereof.

Subject to the terms hereof and to the availability of funds for this purpose, TNC hereby promises, in consideration of the promises made by the Cooperating Entity herein, to pay to the Cooperating Entity the Natural Resource Mitigation Fund Contribution, subject to all of the terms and conditions of this Project Agreement. The Cooperating Entity hereby promises, in consideration of the promises made by the TNC herein, to implement the project described above in accordance with the terms of this Agreement.

This agreement is subject to the following special project terms and conditions:

**[ADD ANY SPECIAL TERMS]**

In witness whereof, the parties hereto have executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

**THE NATURE CONSERVANCY**

By: \_\_\_\_\_  
Its Vice President and State Director

**STATE OF MAINE  
Department of Environmental Protection**

By: \_\_\_\_\_  
Print Name:  
Its Commissioner

**COOPERATING ENTITY:**

By: \_\_\_\_\_  
Print Name:  
Title:

STATE OF MAINE

County of \_\_\_\_\_

Date: \_\_\_\_\_

Then personally appeared the above-named \_\_\_\_\_, duly authorized \_\_\_\_\_ (title) of \_\_\_\_\_ (Cooperating Entity) and acknowledged the foregoing to be his/her free act and deed in his/her capacity and the free act and deed of said \_\_\_\_\_.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law  
Print Name: \_\_\_\_\_  
My Commission Expires:  
Seal:

## **GENERAL PROVISIONS**

### **Part I – DEFINITIONS**

1. The term “DSA” or “Agency” as used herein means the State of Maine, Department of Environmental Protection.
2. The term “Director” as used herein means the Commissioner of the Department of Environmental Protection or any representative lawfully delegated the authority to act for such Commissioner.
3. The term “Premises” as used herein means the lot or parcel or parcels of land as described and shown on Page 1 of the Project Agreement.
4. The term “Project” as used herein means a single project, a consolidated grant, a project element of a consolidated grant, or project stage which is subject to the Project Agreement, and as described on Page 1 of the Project Agreement.
5. The term “Cooperating Entity” as used herein means the entity referred to on Page 1 hereof, which may be a state or federal agency, non-governmental organization or member of the public, which will implement the Project as provided in this agreement.

### **Part II – CONTINUING ASSURANCES**

The Cooperating Entity specifically recognizes that a Natural Resource Mitigation Fund assistance project creates an obligation to acquire, use and maintain the Premises consistent with Title 5, M.R.S.A., Section 6200 et seq., as amended and augmented by P.L. 1999 c. 514, Sec. A-6 and the following requirements:

**A. LEGAL AUTHORITY:** The Cooperating Entity warrants and represents that it possesses the legal authority to apply for the grant and to otherwise carry out the Project in accordance with the terms of this Agreement, and has either marketable title to the Premises or a binding agreement to acquire the same. A resolution or similar action has been duly adopted by the governing body of the Cooperating Entity authorizing the filing of the application and implementation of the Project, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the Cooperating Entity to act in connection with the application and to provide such additional information as may be required by TNC or the DSA and to enter into this Agreement.

**B. FINANCIAL ABILITY:** The Cooperating Entity warrants and represents that it has the ability to provide all other costs of the Project, except the Natural Resource Mitigation Fund share stated on the Page 1 of this Agreement.

**C. USE OF FUNDS:** The Cooperating Entity shall use moneys granted by TNC hereunder only for the purposes of accomplishing the Project, as provided for herein.

**D. PAYMENT.** Payments shall be made to the Cooperating Entity in accordance with the Payment Schedule attached hereto. If the Project costs include the purchase price of land, such payment shall be

made to the attorney for the Cooperating Entity, as escrow agent, prior to the closing on the Cooperating Entity's purchase, to be disbursed directly to the seller of such land once the deed to the Cooperating Entity has been recorded.

If the Project includes the purchase of the Premises, no payment shall be made hereunder until the Cooperating Entity has provided copies of the following documents to TNC for its approval:

- current appraisal of the Premises;
- title insurance commitment, evidencing no title defect affecting the value of the Premises;
- environmental assessment of the Premises, evidencing no environmental factors which negatively affect the conservation or fair market value of the Premises;
- property survey, if necessary, in the judgment of TNC, to ensure that the boundaries of the Premises are clear, and there are no encroachments;
- fully executed purchase and sale agreement for the Premises;
- settlement statement for the purchase of the Premises.

**E. USE AND MAINTENANCE OF PREMISES:** The Cooperating Entity shall assure that the Premises shall be forever used, operated and maintained in its current undeveloped, **forested/wetland** and open space condition, for the long-term conservation of wildlife and other natural resources, and **remains open for public outdoor recreational use** [?], and in accordance with all applicable laws, including without limitation Title 5, M.R.S.A. Section 6200 et seq., as amended and augmented by P.L. 1999 c. 514, Sec. A-6. Prior to payment of any funds hereunder, the Cooperating Entity shall submit to TNC, for its approval, a proposed conservation easement to ensure the permanent protection of the Premises, and shall record such easement with the local land records office. The form of such easement shall be substantially in the form attached hereto and incorporated herein, unless another form is agreed upon between the Cooperating Entity and TNC. Permits and licenses necessary for the implementation of this Agreement or use of the Premises shall be obtained and complied with by the Cooperating Entity. All costs of acquisition or implementation of the Project and ownership and management of the Premises shall be paid by the Cooperating Entity, except for the Natural Resource Mitigation Fund Contribution to be provided by TNC as specified herein.

**F. RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS:** The Cooperating Entity agrees to maintain books, records, documents and other evidence pertaining to all costs and expenses incurred and revenues acquired hereunder to the extent and in such detail as will properly reflect all costs and expenses for which payment or reimbursement is claimed. These records shall be maintained for a period of three years after the end of the Monitoring Term, or if there is no Monitoring Term, for a period of three years after closing on the purchase of the Premises. The books and accounts, files and other records of the Cooperating Entity pertaining to the Project shall at all times be available for inspection, review and audit by DSA and TNC, which shall also be permitted to monitor and evaluate the Project activities Grant through on site visits and/or discussions with the Cooperating Entity and its staff. Any expenditure of Grant funds by the Cooperating Entity that TNC determines, in its sole reasonable discretion, are not permitted hereunder shall be promptly repaid by the Cooperating Entity (or deducted from any subsequent payments hereunder by TNC).

**G. REPORTING AND ANNUAL MONITORING REQUIREMENTS:** The Cooperating Entity shall submit a financial report(s) by \_\_\_\_\_ and a programmatic report(s) by \_\_\_\_\_. In addition, each anniversary of this Agreement, during the Monitoring Term, if applicable, the Cooperating Entity shall report to TNC and the DSA on the status of the Project, and on the condition of the Premises, on a monitoring form approved by TNC. The form shall be sent to: 1) the Agreement Administrator of the DSA, at State House Station 17 Augusta, Maine 04333; and (2) The Maine Natural

Resource Conservation Program Manager, The Nature Conservancy, 14 Maine Street, Suite 401, Brunswick, ME 04011.

**H. PROCUREMENT.** The Cooperating Entity shall follow its own policies with regard to documentation of procurements and maintain documentation of such policies. If the Cooperating Entity does not have written procurement policies, it shall retain documentation for procurements (over US \$5,000 outside the U.S. or over \$10,000 in the U.S.). Such documentation shall include sole source justification, if appropriate, or documentation of a competitive process or comparison shopping.

**I. ASSIGNMENT.** This Agreement may not be assigned by the Cooperating Entity in whole or in part without the prior written consent of TNC.

**J. LOBBYING AND POLITICAL CAMPAIGNING.** The Cooperating Entity shall not use any portion of funds transferred under this Agreement to engage in any lobbying activities unless the parties specifically agree to such lobbying activities in this Agreement. The Cooperating Entity shall not use any portion of funds transferred under this Agreement to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to cause any private inurement or improper private benefit to occur, or to take any other action inconsistent with Section 501(c)(3) of the US Internal Revenue Code.

**K. RIGHT OF ENTRY:** The DSA and TNC, its employees, agents and representatives, shall each have the right to enter the Premises at all times and in all manners without prior notice to assure compliance with the terms of this Agreement and any applicable laws.

**L. PRIOR NOTICE AND APPROVAL REQUIRED PRIOR TO TRANSFER OF PREMISES:** In the event of any sale or transfer, in whole or in part, of the Premises or any interest therein, the Cooperating Entity shall provide at least sixty (60) days prior written notice of the same to the DSA and shall obtain written consent from the same prior to such transfer.

**M. NOTICE OF PROJECT AGREEMENT:** At the request of DSA or TNC, the Cooperating Entity shall record on the land records a notice of the Cooperating Entity's obligations under this agreement that relate specifically to the Premises. Such notice shall include a statement to the effect that the Premises has been acquired with Natural Resource Mitigation Fund assistance and that it shall not be converted to other than conservation and public outdoor recreational use, as specifically provided in this Agreement, without the prior written approval of the Director of the DSA. Such notice shall be on a form satisfactory to TNC and DSA.

**N. CONDEMNATION:** In the event of condemnation of any or all of the Premises, the State of Maine, by and through its Natural Resource Mitigation Fund or another fund designated by TNC, shall receive a share of the proceeds of such condemnation based on the proportion of the total cost of the Project that is paid by the Natural Resource Mitigation Fund Contribution.

**O. ENFORCEMENT ALTERNATIVES:** In the event that the Cooperating Entity does not meet one or more of its obligations under this Agreement, or in the event of dissolution of the Cooperating Entity, the DSA may exercise, in its sole discretion, any of the following remedies following written notice and thirty (30) days opportunity for the Cooperating Entity to cure the default: (a) the right to require specific performance on the part of the Cooperating Entity; and (b) any other rights or remedies available at law or in equity including, but not limited to, the right to require that the Cooperating Entity transfer title to the Premises to the DSA or a successor designated by the DSA under such terms and

conditions as the court may require. In the event that the DSA exercises any of the rights available to it upon default of the Cooperating Entity, the Cooperating Entity shall reimburse the DSA for its costs of enforcement and collection, including reasonable attorney's fees.

**P. MEDIA ANNOUNCEMENTS.** TNC shall have the opportunity to review and comment on proposed media announcements prepared by the Cooperating Entity with respect to the Project.

**Q. INDEMNITY.** The Cooperating Entity shall indemnify TNC and DSA against any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act or omission of the Cooperating Entity's employees or agents in connection with this Agreement or the Property. No legal partnership or agency relationship is established by this Agreement. No party is authorized or empowered to act as an agent, employee or representative of the others.

**R. TERMINATION.** TNC shall have the right to terminate this Agreement for any reason upon 30 days prior written notice to the Cooperating Entity and DSA, in which event payment for work satisfactorily completed by the Cooperating Entity will be adjusted accordingly.

**S. CONFLICTS OF INTEREST.** Prior to the commencement of any work under this Agreement, the Cooperating Entity shall have executed and delivered to TNC a Disclosure Form regarding potential conflicts of interest, in a form previously provided to the Cooperating Entity. If any material misrepresentation in the Disclosure Form is discovered during the term hereof, the Conservancy may elect to declare this Grant agreement null and void and any payments hereunder not yet expended shall be promptly returned to the Conservancy.

**T. SUCCESSORS AND ASSIGNS:** Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. In the event that TNC or the DSA ceases to exist, the rights and responsibilities of that party shall automatically be vested in any successor agency designated by the Legislature. Failing legislative designation, the successor agency shall be as determined by the Governor.

**U. AMENDMENT:** This Agreement may not be amended, in whole or in part, except with the written consent of all of the parties hereto.